

From: [Stark, David](#)
To: [Weston Adams](#); [Mustian, Ben](#)
Cc: [Boyd, Jocelyn](#); [Shannon Bobertz](#); [Emily Johnson](#); [Dickman, Jacquelyn S.](#); [Wessinger-Hill, JoAnne](#); [PSC Contact](#); [Court Walsh](#); [Steve Davidson](#); [Bateman, Andrew](#); [Grube-Lybarker, Carri](#); [Hall, Roger](#); [Lorianne Riggan](#); [Parrish, Duane](#); [Martinez, Sara](#); [Butler, David](#); [Hancock, Sonya](#); [Schmieding, Janice](#); [Duke, Daphne](#); [Moser, Sandra](#)
Subject: RE: [External] Re: Revised proposed consent schedule: Docket Nos. 2022-93-E & 2022-97-E
Date: Thursday, May 5, 2022 4:40:35 PM

Ben, Weston, and all Parties:

That clarified the problem. I see how that would be confusing and apologize for that. As you noted, the Hearing Officer Directive was issued two weeks before the Commission Order was issued. There was an unintended timing issue here - the Commission Order No. 2022-271 was the result of the Commission Directive issued on 3/31/22 – only. It contemplated a consultation with the Chief Hearing Officer which had, in fact, already been conducted via email between the parties and me, resulting in the issuance of the Hearing Officer Directive 2022-32-H.

In other words, the will of the Commission as stated in its Directive – and later issued in its Order – was already effectuated prior to the issuance of the Order.

I would like to be absolutely, unequivocally clear about the current schedule:

The schedule currently approved in the docket for action is as follows:

May 12: brief convening of hearing with only counsel present, to satisfy statutory requirement to convene proceeding within 60 to 90 days of application being filed.

June 8: ORS and Other Parties Testimony due

June 22: Applicant Rebuttal Testimony due

July 1: ORS Surrebuttal Testimony due

July 13: Full witness hearing

Regarding the parties' discussion of seeking a change from this schedule, I understand the Applicant and ORS are jointly proposing an alternative schedule. If my understanding is correct, I think it would be most appropriate to file a request for a change to the procedural schedule. It would also be helpful if the other parties to the proceeding were to comment on their respective positions regarding such jointly proposed alternative schedule.

Once again, I want to specifically apologize for the confusion resulting from this timing issue and any consternation resulting thereof.

If I have failed to address any point related to the procedural status of these dockets, please let me know. I will take care of it immediately.

With Sincere Regards,

David Stark

From: Weston Adams <weston.adams@nelsonmullins.com>

Sent: Thursday, May 5, 2022 4:17 PM

To: Mustian, Ben <BMustian@ors.sc.gov>

Cc: Stark, David <david.stark@psc.sc.gov>; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>; Shannon Bobertz <BobertzS@dnr.sc.gov>; Emily Johnson <ejohnson@scprt.com>; Dickman, Jacquelyn S. <DICKMAJS@dhec.sc.gov>; Wessinger-Hill, JoAnne <JoAnne.Hill@psc.sc.gov>; PSC_Contact <Contact@psc.sc.gov>; Court Walsh <court.walsh@nelsonmullins.com>; Steve Davidson <steve.davidson@nelsonmullins.com>; Bateman, Andrew <abateman@ors.sc.gov>; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <RHall@scconsumer.gov>; Lorianne Riffin <RiffinL@dnr.sc.gov>; Parrish, Duane <dparrish@scprt.com>; Martinez, Sara <martinsv@dhec.sc.gov>; Butler, David <David.Butler@psc.sc.gov>; Hancock, Sonya <sonya.hancock@psc.sc.gov>; Schmieding, Janice <Janice.Schmieding@psc.sc.gov>; Duke, Daphne <Daphne.Duke@psc.sc.gov>; Moser, Sandra <Sandra.Moser@psc.sc.gov>

Subject: [External] Re: Revised proposed consent schedule: Docket Nos. 2022-93-E & 2022-97-E

David:

Our impression was that the April 28 Commission Order was the latest word from the Commission on the scheduling question, and because it called for Applicants and ORS to consult with you as to a new hearing date, Ben sent you the revised proposal this morning. Applicants would still prefer the proposal that Ben put forward this morning in his email, and I believe ORS would still consent to that proposal- Ben can confirm that ORS is still on board with same.

Please let us know what would be most helpful to you in regard to Applicants and ORS proposing this revised schedule—we are happy to submit a letter or a more formal Motion if need be.

Thanks again

Weston

Sent from my iPhone

On May 5, 2022, at 3:56 PM, Mustian, Ben <BMustian@ors.sc.gov> wrote:

◀External Email▶ - From: bmustian@ors.sc.gov

David,

I apologize for any confusion I may have caused. As mentioned in my email below, the Commission issued the attached Order No. 2022-271 on April 28. Therein, the Commission stated that ORS and the Applicants had consented to the following schedule, which was the schedule originally proposed by the parties back on March 15:

Convene the hearing to satisfy statutory requirements – May 12, 2022
 ORS and Other Parties Testimony due – June 15, 2022
 Applicant Rebuttal Testimony due – June 29, 2022
 ORS Surrebuttal Testimony due – July 13, 2022
 Full witness hearing – July 18, 2022

The Order further advised that the Commission had a scheduling conflict on July 18 and asked the parties to confer about new dates.

You are correct that you issued a hearing officer directive on April 14 (two weeks prior to the Commission's Order) approving the schedule you outlined below. But due to the timing of the Commission order, ORS and the Applicant were of the belief that additional changes to the schedule were needed and that the parties needed to confer with you as the hearing officer about these issues.

In conjunction with this issue, I understand the Applicant was considering filing a request with the Commission to modify the July hearing date. Given that their potential request coincided with the issuance of Commission Order No. 2022-271, the Applicant and ORS took that into consideration when proposing a new hearing timeframe, which we understood the Commission was directing us to do in Order No. 2022-271.

I now understand that the issuance of the Order may have been out of time, which caused our confusion. If that is correct, then I understand the currently approved schedule is as you stated below:

May 12: brief convening of hearing with only counsel present, to satisfy statutory

requirement to convene proceeding within 60 to 90 days of application being filed.

June 8: ORS and Other Parties Testimony due

June 22: Applicant Rebuttal Testimony due

July 1: ORS Surrebuttal Testimony due

July 13: Full witness hearing

Although this is the schedule you noted below, I would appreciate it if you could confirm that this is the currently approved schedule so that we all are certain of the baseline off of which we are working.

Finally, I have spoken with counsel for the Applicant and understand that they still may request a modification to the hearing date. But I understand they will be submitting a more formal request in that regard should they choose to do so.

I am sure that I have made everything as clear as mud, but appreciate your patience and for working with us to clear up any confusion.

Thank you and please let me know if there are further questions.

Ben Mustian

From: Stark, David <david.stark@psc.sc.gov>

Sent: Thursday, May 5, 2022 2:22 PM

To: Mustian, Ben <BMustian@ors.sc.gov>; Weston Adams

<weston.adams@nelsonmullins.com>; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>;

Shannon Bobertz <BobertzS@dnr.sc.gov>; Emily Johnson <ejohnson@scprt.com>;

Dickman, Jacquelyn S. <DICKMAJS@dhec.sc.gov>; Wessinger-Hill, JoAnne <JoAnne.Hill@psc.sc.gov>; PSC_Contact <Contact@psc.sc.gov>; Court Walsh <court.walsh@nelsonmullins.com>; Steve Davidson <steve.davidson@nelsonmullins.com>; Bateman, Andrew <abateman@ors.sc.gov>; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <RHall@scconsumer.gov>; Lorianne Riggins <RigginL@dnr.sc.gov>; Parrish, Duane <dparrish@scprt.com>; Martinez, Sara <martinsv@dhec.sc.gov>
Cc: Butler, David <David.Butler@psc.sc.gov>; Hancock, Sonya <sonya.hancock@psc.sc.gov>; Schmieding, Janice <Janice.Schmieding@psc.sc.gov>; Duke, Daphne <Daphne.Duke@psc.sc.gov>; PSC_Contact <Contact@psc.sc.gov>; Moser, Sandra <Sandra.Moser@psc.sc.gov>

Subject: RE: Revised proposed consent schedule: Docket Nos. 2022-93-E & 2022-97-E

Importance: High

Parties:

There are two issues I need to address directly.

The first: **I would ask the parties please fill out the following virtual media plan survey, so we have all the appropriate information to enable us to use technology in furtherance of our hearing(s).** That link is here:

<https://www.surveymonkey.com/r/3JCBN59>

The second issue: It appears there has been some miscommunication on the scheduling of the hearing(s) and I would like to resolve it at this time.

There was a schedule proposed by the parties that had the following:

May 12: brief convening of hearing with only counsel present, to satisfy statutory requirement to convene proceeding within 60 to 90 days of application being filed.

June 8: ORS and Other Parties Testimony due

June 22: Applicant Rebuttal Testimony due

July 1: ORS Surrebuttal Testimony due

July 13: Full witness hearing

I understand this was the desire of the parties. On April 14, after emails between the parties and an acknowledgement that a status conference would be difficult to put together, I issued Hearing Officer Directive 2022-32-H available here:

<https://dms.psc.sc.gov/Attachments/Matter/42125da5-6c64-4423-bc29-53ff2dc59a52>

If this Directive was not appropriately distributed to you, please let me know and I assure you it will be addressed.

In that Directive, I have approved the proposed schedule, with a merits hearing on July

13. Now, I need the parties to understand – as I emphasized in the Directive – that, should the hearing take longer than that ONE day, July 13, that we would have to continue at a future, non-contiguous date due to conflicts in the Commission’s schedule.

Now, I need to understand EXACTLY what the parties want to do here. If the parties are jointly requesting to deviate from that approved schedule, I need to know.

If I have in any way inadvertently mislead the parties, I deeply apologize and would like to correct any and all ambiguities at this time.

Sincere Regards,
David Stark

From: Mustian, Ben <BMustian@ors.sc.gov>
Sent: Thursday, May 5, 2022 11:01 AM
To: Stark, David <david.stark@psc.sc.gov>; Weston Adams <weston.adams@nelsonmullins.com>; Boyd, Jocelyn <Jocelyn.Boyd@psc.sc.gov>; Shannon Bobertz <BobertzS@dnr.sc.gov>; Emily Johnson <ejohnson@scprt.com>; Dickman, Jacquelyn S. <DICKMAJS@dhec.sc.gov>; Wessinger-Hill, JoAnne <JoAnne.Hill@psc.sc.gov>; PSC_Contact <Contact@psc.sc.gov>; Court Walsh <court.walsh@nelsonmullins.com>; Steve Davidson <steve.davidson@nelsonmullins.com>; Bateman, Andrew <abateman@ors.sc.gov>; Grube-Lybarker, Carri <clybarker@scconsumer.gov>; Hall, Roger <RHall@scconsumer.gov>; Lorianne Riggins <RigginsL@dnr.sc.gov>; Parrish, Duane <dparrish@scprt.com>; Martinez, Sara <martinsv@dhec.sc.gov>
Cc: Butler, David <David.Butler@psc.sc.gov>; Hancock, Sonya <sonya.hancock@psc.sc.gov>; Schmieding, Janice <Janice.Schmieding@psc.sc.gov>; Duke, Daphne <Daphne.Duke@psc.sc.gov>; PSC_Contact <Contact@psc.sc.gov>
Subject: RE: Revised proposed consent schedule: Docket Nos. 2022-93-E & 2022-97-E

David,

As you know, ORS and the Applicants in the above-referenced matters have been working together to propose a consent procedural schedule for the Commission’s consideration. On April 28, 2022, the Commission issued Order No. 2022-271 advising that, while the parties consented to holding the substantive hearing in this matter on July 18, the Commission needs to explore alternatives to that date due to a scheduling conflict. Accordingly, the Commission directed the parties to discuss with the Hearing Officer an alternative procedural schedule for filing testimony and exhibits and to advise if beginning the hearing at a different date and time is agreeable.

After discussing this matter, ORS and the Applicants have agreed to the following proposed testimony and hearing schedule:

Convene the hearing to satisfy statutory requirements – May 12, 2022
ORS and Other Parties Testimony due – June 15, 2022
Applicant Rebuttal Testimony due – June 29, 2022
ORS Surrebuttal Testimony due – July 13, 2022
Full witness hearing – On a date suitable to the Commission to begin between August 23 and August 30, 2022.

For clarity, this proposal would maintain the currently agreed upon testimony dates and would provide for the substantive hearing to begin sometime between August 23 through 30, 2022, on a date convenient to the Commission.

I would appreciate it if any of the statutory parties would advise of any objection to the proposed consent schedule.

Otherwise, please let us know if the Commission has any concern with these dates and if a date sometime between August 23 through 30 to commence the hearing in this matter is acceptable to the Commission.

Thank you.

Ben Mustian

Benjamin P. Mustian
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